

TITLE 14. Fish and Game Commission

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 1050 and 8587.1, of the Fish and Game Code and to implement, interpret or make specific sections 1050, 7850, 8587, and 8587.1, of said Code, proposes to amend Section 150, Title 14, California Code of Regulations, relating to the use of dip nets in the Commercial Nearshore Fishery.

Informative Digest/Policy Statement Overview

The Fish and Game Code, under general license provisions, authorizes the Department to prepare and issue licenses and permits and authorizes the Commission to determine the terms and conditions of permits. In 1998, the Legislature adopted the Nearshore Fisheries Management Act which provides authority to the Commission for the nearshore fishery. Included in this legislation is the authority to adopt a fishery management plan for nearshore fish stocks and regulations as determined necessary to regulate nearshore fish stocks and fisheries. The regulatory authority includes, but is not limited to, the establishment of limitations on the fishery based on type of gear and further specifies that any regulation adopted pursuant to this section shall be adopted following consultation with fishery participants.

The Commission adopted a Nearshore Fishery Management Plan in 2002 and established limitations on gear use in the nearshore fishery. The Commission also adopted a restricted access program that specifies the gears that can be used in the nearshore fishery. Hook-and-line gear or other gears authorized under a Nearshore Fishery Permit gear endorsement are allowed to be used. Currently, trap gear is the only gear endorsement.

A fishery participant requested that the Commission provide for the use of dip nets in the nearshore fishery. The proposed regulation would establish dip net as an authorized gear for all Nearshore Fishery Permit holders. The proposed regulations would not change the current authorization to use hook-and-line gear nor would it change the trap gear endorsement program.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in The Beach Resort, Bay View Room, 2600 Sand Dunes Drive, Monterey, California, on Friday, December 3, 2004 at 8:30 a.m. or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before November 24, 2004 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than December 3, 2004 at the hearing in Monterey. E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Robert R. Treanor or Sherrie Koell at the preceding address or phone number. **Marija Vojkovich, Offshore Ecosystem Coordinator, Department of Fish and Game, Marine Region, (805) 568-1246 has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the above address. Notice of the proposed action shall be posted on the Fish and Game

Commission website at <http://www.fgc.ca.gov>

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed action will allow current Nearshore Fishery Permit holders to use gear that has historically been used in the nearshore fishery but not authorized under current regulations. The proposed action will not allow new permittees into the fishery and will not remove any current permittees from the fishery.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

(h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Robert R. Treanor
Executive Director

Date: September 28, 2004